

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JOHN T. LAMONT and
PRESTON POULTER,

Plaintiffs,

v.

DEAN ASSAF A/K/A DA TALKS,
VICTORIA KUNDERT
A/K/A VIKKIVERSE,
Defendants.

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Civil Action No. 3:21-CV-1176-K

Judge Kinkeade

**DEFENDANT’S OBJECTION TO MAGISTRATE’S REPORT
AND RECOMMENDATIONS**

In response to the Court’s invitation, Defendant Kundert raises the following "objection" to the Magistrate’s Report and Recommendation entered on April 25, 2023 (Dkt. 56) concerning Defendant Victoria Kundert’s Motion to Dismiss (Dkt. 53) and suggests the Court's final judgment should contain supplemental clarifying language. The Defendant raised two additional grounds for dismissal which were not considered. The final judgment should make clear that these other grounds for dismissal will be properly before this Court in the unlikely event that Plaintiffs successfully appeal and have the Court's judgment overruled. To avoid piecemeal prosecution, Plaintiffs should petition this Court to rule on these additional grounds at this time. As matters now stand, Defendant suggests the following underlined language be added to the Magistrate's recommendations:

The Court grants Kundert's motion to dismiss and hereby dismisses Plaintiffs' claims against her without prejudice for lack of personal jurisdiction and need not consider the other grounds for dismissal set out in her motion (which, if successful, would also result in a dismissal without prejudice). The other grounds are moot so long as this judgment remains in effect.

Date: April 27, 2023

Respectfully submitted,

/s/ Victoria C. Kundert

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all parties through the Court's CM/ECF system, including those listed below, on March 16, 2023.

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